IN THE HIGH COURT OF JUDICIATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.1166 OF 1998

The Commissioner of Income-tax,
Bombay City-VI, Bombay .. Applicant.
V/s.
The Boots Co.(India) Co. .. Respondent.

Mr.Parag Vyas with Mr.Ashok Kotangale & Mr.A.S. Rao for the applicant.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 18TH OCTOBER, 2005.

P.C. :

1. Heard the learned counsel for the applicant. The Tribunal has referred following question for the opinion of this Court reading as under :-

> Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that salary paid to employee for the period spent by him while on tour outside India should be excluded from the payments to be considered for disallowance in view of the provisions of sec.40(5)(b)(i) ?

2. The learned counsel for the applicant-revenue fairly submits that the above question has already been answered by the Supreme Court in the case of CIT V/s.Continental Construction Ltd. [(1998) 230 ITR 485 (SC)] in favour of the assessee and against the revenue. In this view of the matter, question stands answered in affirmative for the reasons stated in the case cited supra. Reference, accordingly stands disposed of with no order as to costs.

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